

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Lyon Financial Services, Inc.,

Civil No. 06-4562 (PJS-JJG)

Plaintiff,

v.

ORDER

**MBS Management Services, Inc.,
MBS Realty Investors, Ltd.,**

Defendants,

v.

American Business Machines, Inc.,

Third Party Defendant.

This matter is before the undersigned upon the report and recommendation of the United States Magistrate Judge. No objections have been filed to that report and recommendation in the time period permitted. Based on the report and recommendation of the Magistrate Judge, and being duly advised of all the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT:**

1. ABM's motion to dismiss (Doc. No. 16) is **GRANTED IN PART AND DENIED IN PART.**
2. The following claims in the third party complaint are **DISMISSED WITHOUT PREJUDICE.**
 - a. Counts III, V, VI, and VII in their entirety.
 - b. Count I only to the extent it is founded on a theory of fraud.

Dated: 9/27/07

s/Patrick J. Schiltz
PATRICK J. SCHILTZ
United States District Judge